

Address

by the

Hon. Mr. Justice Joseph D. Camilleri B.A., LL.D.
Chairman,
Judicial Studies Committee

**on the occasion of the commemoration of the
Third Anniversary
of the official launching of the
Judicial Studies Committee**

Vassalli Hall

**Mediterranean Conference Centre
Valletta
Malta**

22 January 2007

Your Honour Chief Justice, Dr. Vincent De Gaetano,
Honourable Deputy Prime Minister and Minister responsible for
Justice, Dr. Tonio Borg,
The Right Honourable The President of the Queen's Bench Division,
Sir Igor Judge and Lady Judith Judge,
Your Excellencies High Commissioners and Ambassadors,
Honourable Parliamentary Secretary, Dr Carmelo Mifsud Bonnici,
Honourable Chief Justices Emeriti,
Fellow Colleagues on the Bench,
The Attorney General, Dr Silvio Camilleri,
Distinguished Guests,
Ladies and Gentlemen.

I would like to thank all of you for your kind acceptance of my invitation to be present here on the occasion of the commemoration of the Third Anniversary of the official launching of the Judicial Studies Committee.

I would particularly like to thank the Right Honourable The President of the Queen's Bench Division, Sir Igor Judge, who, very graciously, has found the time, not only to be with us, but also to speak to us on a topic which is absolutely vital for the proper administration of justice in every civilised and democratic country.

This afternoon, I have set myself the task of relating to you the history, as I see it, of the Judicial Studies Committee:
Why it was essential to be set up;
How it was born;
Its aims and objectives;
Its past and present supporters;
The problems it is still facing;
Its past and present achievements;
As well as the way forward.

Besides being a great composer, Hector Berlioz was also a very gifted writer. In 1848, he published his autobiography, where he candidly reports his successes, as well as his failures, sometimes in a very humorous way. Chapter 44 of his memoirs has these striking subheadings:

**I am introduced to Miss Smithson
She is bankrupt
She breaks her leg
I marry her.**

Of course, Hector Berlioz has nothing to do with today's commemoration. However, I must confess that on reading these lines, a few days ago, I could not help noticing that in a somewhat contorted

way, my connection with judicial studies resembled Berlioz's affair with Miss Smithson.

Let me tell you how it all started.

But first, let me clarify, if I may, what I mean by the phrase "judicial studies" or "judicial training". One of the duties falling on the shoulders of all members of the judiciary is that they must acquire and develop their judicial skills. They must also keep themselves abreast of social and legal developments, especially as regards the numerous and varied laws that they have to apply in their daily work. They can achieve this, in part by studying on their own and in part by attending courses or seminars, where some particular topic is mastered.

It is the duty of the State to organise such training events, and to make sure that they are of a sufficiently high standard and attractive so that the members of the judiciary would look forward to them. In other words, the phrases "judicial studies" or "judicial training" indicate the process whereby members of the judiciary partake of initial and/or ongoing professional development.

I was introduced to judicial training during the time when I was working on the opinions that were being drafted by the Consultative Council of European Judges for the Committee of Ministers of the Council of Europe, on various matters vital to the judiciaries of Europe, including the topic of judicial training.

I became fully aware of the wide range of systems of training existing in Europe, some providing lengthy formal training in specialised establishments, others practicing a sort of apprenticeship under the supervision of an experienced judge, while countries following the common law tradition rely heavily on lengthy professional experience, mainly as advocates.

I realized that training is an indispensable tool which enhances the professional ability of judges and magistrates, guarantees their independence and impartiality, and provides them with knowledge which extends well beyond the technical field of law, to cover areas such as courtroom and personal skills, thus enabling judges to manage cases better and deal with all sorts of persons, in a sensitive and proper manner.

It became apparent to me that the Maltese judiciary was almost totally bankrupt in the field of training. Perhaps this situation could be tolerated in the past, when the law changed at a snail's pace.

Nowadays, on the contrary, we are being flooded each year with hundreds of pages of new legislation, and major amendments to our codes, as well as the other basic legislation, have become the order of the day. To crown it all, with Malta's accession to the European Union, a massive body of complicated community law was grafted, by a single stroke of a pen, to our judicial system.

I noted that unlike us, all European judiciaries were firmly committed to judicial training. Thus, to mention just one example, every single judge in the Netherlands must take part in at least thirty hours of judicial training in every year. I realized that if we were to keep abreast with this fast changing legal landscape, both on the home front and also on the European level, as well as bringing ourselves on a par with the best of the other European judiciaries, something had to be done to organize judicial training in Malta on a sound and permanent footing.

This need must have also been felt by the then Minister of Justice the Hon. Dr Austin Gatt. In fact, in 2002 he set up a Training Academy and charged it with the training not only of all court employees, but also with the training of all the members of the judiciary.

Although I did not have any doubt that the Minister was acting in good faith, I immediately realized that a body charged with judicial training, but acting under the control of the Executive, could very well impinge, or at least could be perceived to impinge, upon the independence of the judiciary. I alerted the Chief Justice and the Minister to this inherent danger, and, to cut a long story short, a separate entity was created and thus the Judicial Studies Committee was born.

A statute for this Committee was drafted and eventually approved by the Chief Justice, His Hon. Dr Vincent De Gaetano and the Minister responsible for justice, the Hon. Dr Tonio Borg. The Committee is composed of four members, two members of the judiciary appointed the Chief Justice and two other members appointed by the Minister of Justice.

Overall control and direction is in the hands of the judiciary, mainly through the role of the Chief Justice as well the Chairman's original and casting vote. However, the committee is fully dependent for funding and for all its other resources on the goodwill of the Executive. It is obvious that if adequate resources are not made available to it, few, if any, of the aims listed in its statute could be implemented.

The Judicial Studies Committee aims at identifying the training needs of the judiciary. It organizes mentoring arrangements for newly appointed judges and magistrates, as well as seminars, conferences and other in-service training sessions to enhance judicial efficiency. It aims to disseminate among members of the judiciary information about current legal developments especially through the medium of information technology. It also aims to promote and maintain public and international confidence in the Maltese judiciary. Another objective of my Committee is to encourage international cooperation in matters related to judicial training.

The British High Commission in Malta has been a great friend of the Judicial Studies Committee. His Excellency Sir Vincent Fean, who occupied the post of British High Commissioner in Malta at the time when the Judicial Studies Committee was launched, responded to my request for cooperation with keen interest.

I would like to acknowledge that without his wholehearted and practical support my Committee would have made very little headway.

Through his good offices we secured the services of Judge William Rose – another great friend of the Judicial Studies Committee – who was then Director of Studies at the Judicial Studies Board of England and Wales. Judge Rose visited us to acquaint himself with our situation and special needs, and in August of 2003, Judge Rose furnished us with a report detailing his recommendations on how a structured and coherent system of judicial training could be set up in Malta, bearing in mind the particularly small size of the judiciary here.

We wanted to ensure that the resources that would hopefully be made available to us would be accurately targeted to achieve the best results with the minimum degree of disruption to judicial business and with particular regard to the sensitivity of our proud and independent judiciary.

When the Judicial Studies Committee was officially launched, in this same hall, on the 17th of October 2003, Judge Rose was our keynote speaker. The Judicial Studies Board of England and Wales had been established for 25 years and he spoke about the British experience in judicial training. I remember very well that part of his speech where he explained to us how, at first, a good number of English judges, found the concept of training in judicial skills almost offensive and insulting. He told us that gradually judges began to change their attitude and eventually most, if not all, grasped and understood that there are real and tangible benefits that are to be obtained from training, and that there is no question that training can be looked at as being, in some way, a slur on judicial capabilities or judicial independence.

I would also like to pay tribute to the support that Sir Vincent gave me when I addressed a request to the Lord Slynn of Headley European Law Foundation, to extend its services to the Maltese Judiciary. He managed to find all the necessary funding, with the result that two immensely successful conferences on European Law were organised, with such distinguished European Law jurists as Lord Slynn, David Vaughan QC and Cherie Booth QC, the spouse of Prime Minister Mr. Tony Blair.

These conferences were remarkable on another level because the Judicial Studies Committee started organising some events in collaboration with the Chamber of Advocates, under the presidency of Dr Robert Mangion. We were thus able to establish an excellent professional relationship with the Chamber of Advocates, and this has been mutually beneficial in many ways.

Over the past three years the Judicial Studies Committee has organised some fifteen seminars on a wide range of subjects such as case management, the major amendments to the laws of civil procedure and to the criminal code, various topics of European law, such as the preliminary reference procedure, how to cope with judicial stress and how to deliver *ex tempore* judgments.

The seminar organised by the Judicial Studies Committee on alternative dispute resolution techniques was made possible through the generous support of the Royal Netherlands Embassy and the Embassy of the United States of America. I would also like to acknowledge the debt that my Committee owes to the Technical Assistance Information Exchange Unit of the European Commission, TAIEX, under whose auspices, several very successful seminars on European Community Law were organised for the Maltese judiciary.

Over the last three years the Judicial Studies Committee was also instrumental in securing placements for several Maltese judges and magistrates in various training events held abroad. We consider that such participation is to be encouraged as it gives our judges the opportunity to mingle with other European judges, coming from much larger jurisdictions, and to share ideas and experiences with them. On their return, many of them acknowledge that their participation in these seminars was a truly fruitful and worthwhile experience.

The Judicial Studies Committee has been a member of the European Judicial Training Network for the last two years. This network is doing sterling work aimed at strengthening national institutions charged with judicial training, building mutual trust among judicial authorities, promoting knowledge of other legal systems in the European Union and assisting in the process of the mutual recognition of judicial decisions. The implementation of all these aims is vital for the creation of a European area of freedom, security and justice, targeted by the Hague Programme. Through this network, we have gained a lot of experience in various aspects of judicial training. This network will also be opening new opportunities for our judges and magistrates to go on study visits to the courts of European Member States through participation in the Exchange Program for judicial authorities, which is administered by the network.

A significant event held this year was a European Union Twinning Light Project entitled "Capacity Building in the Justice Sector". The parties to this project were the Ministry for Justice and Home Affairs and the Department of Contracts of Malta, on one side, and the German Foundation for International Legal Cooperation, on the other side. The total value of this project was two hundred and seventy six thousand Euros (€ 276,000), out of which two hundred and forty one thousand Euros (€ 241,000) were European Union funds. Seven experts from this Foundation visited Malta on various occasions and reports were drawn by them on how to strengthen the structure and functioning of both the Judicial Studies Committee and the Training Academy. The latter body caters for the training of all court's staff.

The project had the following main activities:

1. The organisation of two study visits;
2. The assessment of organisational and technical structures;
3. A training needs assessment;
4. A strategy and implementation plan;

5. The development of contacts with other training institutions;
6. The purchase of information technology equipment, including video conferencing equipment;
7. The setting up of two websites, one for the Training Academy and one for the Judicial Studies Committee;
8. The setting up of a small library of European Community law books and related titles, as well as a legal research unit;

As the selection procedure of judges and magistrates is closely linked with the subject of judicial training, a further activity was added to this Light Twinning Project, namely the experts were requested to draw a report on the current Maltese system regarding the selection and the appointment of judges and magistrates.

On the whole, the results achieved by the project were satisfactory. The Maltese authorities have in their hands the various reports drawn up by the experts and it is up to them to implement such recommendations that they deem necessary.

The designing of the website for my Committee is expected to be completed by the end of this month and it is hoped that this website will provide the Judicial Studies Committee with an excellent tool with which it can enhance the efficiency of its work. I understand that the IT equipment and the video conferencing equipment are expected to be supplied by next March.

Professor Holger Knudsen, one of the German Experts of this Light Twinning project, drew a report on the setting-up and maintenance of a European documentation facility in the Law Courts. He also drew up a selected list of some one hundred European Union Law books for this small specialised library. I regret having to state that the procurement of these books, whose value amounts to about fifteen thousand Malta Liri (Lm15,000), has not been achieved, as the tender failed to be awarded, due to some technical difficulty.

I do hope that some way would be found whereby these essential books would be made available in our library at the Law Courts.

I must pay tribute to the sterling work done for the Judicial Studies Committee by its current members, particularly my Deputy, Magistrate Dr Silvio Meli. A special word of thanks goes to the former members Dr Kevin Aquilina and Mr Alfred Theuma, who were ably assisted by Mr Mario Tabone. It was a big blow when the Committee lost the services of these gentlemen.

A big setback for the Judicial Studies Committee has been the recent loss of its office space at the law courts. It is hoped that the court administration would find a reasonable solution to this problem as soon as possible.

A major problem being faced by the Judicial Studies Committee is that it lacks the necessary human resources. It is obvious that without adequate resources the Committee cannot function effectively and efficiently. It is recalled that Judge William Rose had recommended in his report dated August 2003, that the services of a full time and experienced administrator should be made available to the Judicial Studies Committee. Unfortunately, the Judicial Studies Committee is still without the actual services of such an administrator. In the course of the last two years, the administration appointed, on two successive occasions, a person to fill this post, but I regret to state that both of them sought "pastures new", for one reason or another, after some weeks at the Law Courts. I need hardly stress that it is essential that this post be filled as soon as possible. The present situation, where all the routine work of the Committee, including all clerical and secretarial work, is laid on the desk of the Chairman, can hardly be tolerated any longer. Because of this serious setback, the Judicial Studies Committee is very severely handicapped and is quite unable to make any really long term plans for the judicial training of the judiciary.

I am looking forward to the one-day seminar on competition law which will be organised by the Judicial Studies Committee in March 2007, with the collaboration and support of the European Commission representation in Malta. I am very grateful to Dr Joanna Drake for the enthusiasm with which she accepted my proposal to have this seminar organised for the Maltese judiciary.

I am also looking forward to the other two-day seminars planned for next April and July, both being organised with the support of TAIEX, one on *Judicial Co-operation in Civil and Criminal Matters* and the other on *The Role of the National Courts in the Enforcement of Community Law*.

From what I have said today, one can clearly see that these last three years have not been easy. At the very start we were verging on the brink of bankruptcy in terms of training, rather like Miss Smithson whom I mentioned at the beginning of my speech. We had our share of problems and setbacks, not unlike Miss Smithson too. We still lack the necessary resources. We still have a lot to learn, a lot to improve.

However, we have always kept our faith and responded to all challenges with a strong determination. We have sought opportunities and grabbed those that came our way. With the hindsight of the last three years, we can well and truly say that the culture of ongoing professional development has not only entered our Courts of Justice, but it now firmly wedded to the minds of a good number of the members of our judiciary. Like me, they are absolutely convinced that training delivers very real and tangible benefits. This is bound to have far reaching and long term advantages for the proper administration of justice in Malta.

Thank you very much for listening to me.